

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

LONTEX CORPORATION

Plaintiff,

v.

NIKE, INC.,

Defendant.

Civil Action No. 2:18-cv-05623-MMB

**DECLARATION OF MIKE KOZAK**

I, Mike Kozak, declare as follows:

1. I am over the age of 18 years. Each statement made in this declaration is based upon facts within my personal knowledge.

2. I reside in the State of Florida and from 2002 until 2019 worked for the MLB team the Miami Marlins (formerly the Florida Marlins) as an Assistant Athletic Trainer, prior to which I worked as Assistant Athletic Trainer for the Montreal Expos. As the Assistant Trainer for the Marlins, I was also a member of the Professional Baseball Athletic Trainers Society (also known as "PBATS").

3. As assistant trainer for the Marlins, my role included doing everything I could to help the Marlins players, working hard to enhance workouts, reduce and prevent player injuries, improve player recoveries, just to name a few.

4. I have been familiar with Efraim Nathan / Lontex's products for over 38 years, and during that time (until I left the Marlins) I saw him at least once each year at the PBAT winter annual conference (at the product review show), in the visiting clubhouse when we would come at least once a season to the Phillies stadium for 3-game series, and usually once a year at spring training in the training room as well, in addition to phone calls with Mr. Nathan.

5. Marlins players consistently used Lontex's SWEAT IT OUT products because both I and Sean Cunningham have observed them to be very effective at rehabilitation, exercise, and recovery. These compression products have always been excellent and had a reputation for actually working.

6. In these interactions consistently since at least 2008, I personally heard Efraim Nathan regularly refer to SWEAT IT OUT's stretch technology as the "COOL COMPRESSION" technology. His annual presentations at the PBATS annual conference, for example, always have him stretching his garment in many directions and telling us that this

“COOL COMPRESSION” technology stretches differently than the other garments out there. He would always advise us to “read the label.” Also, each time we were at the Phillies stadium for games, Mr. Nathan would meet us in the visitor training room, talking with me face-to-face, going over his line of compression products, stretching the garment, and telling me more about his “COOL COMPRESSION” technology advantage and how it stretches differently.

7. In my experience over these conversations with Mr. Nathan and in listening to his presentations since at least 2008, Lontex’s “COOL COMPRESSION” technology is the main item covered by Mr. Nathan, and in hearing him he has always referred to the “COOL COMPRESSION” technology by that name. I have always understood “COOL COMPRESSION” to mean the unique stretch that Lontex’s garments have.

8. From at least 2009 until I left the Marlins in 2019, the Marlins often had stock of Lontex’s SWEAT IT OUT garments, which gave me regular opportunity to observe the inside care label. For example, I and Mike Kozak (Head Trainer for the Marlins until 2016) purchased Lontex’s SWEAT IT OUT garments for the Marlins in at least 2009-2010, 2012-2014 and 2016, and most recently for the 2019 season. For each of these orders during this entire time, I observed that the inside care label consistently had the “COOL COMPRESSION” name on it as shown in the inside garment label pictures shown below, which in my experience was how the care labels appeared on Lontex’s compression garments since at least 2009:



9. As an assistant trainer in the MLB, I was also familiar with the NIKE garments that players would wear. The team purchased and players wore both NIKE and Lontex garments during the same time periods. Whether it was the equipment staff or the training staff that actually made the purchases of each, we regularly discussed purchasing and use of these player garments, as well as actually saw and held the garments. Whether a NIKE or SWEAT IT OUT garment, this included the inside care label as well, where the player's number is written in permanent marker which allows us to quickly identify the player who uses that garment (where the number was not already on the outside).

10. I have reviewed the examples below of Nike using "COOL COMPRESSION" in the product name and they make me believe that Nike is using Lontex's COOL COMPRESSION technology in these compression garments:



**719903 NIKE PRO COOL COMPRESSION 1/2 SLEEVE TOP \$30.00**

SIZES: S, M, L, XL, 2XL, 3XL, 4XL OFFER DATE: 01/16  
END DATE: 10/17

New zoned thermoregulation with back panel mesh. Raglan sleeve construction for increased mobility. Ventilated side hem with drop tail. Compression fit for locked in feel and increased proprioception. Lightweight all over four way stretch jersey fabric provides ultimate moisture management on game day. Flatlock seams to reduce irritation from chafing. #3 Swoosh design trademark at left arm. Nike pro center back read. Body width: 17.5", Body length: 28.75" (size large).

**FABRIC:**

010 Black/White	060 Carbon Heather/Black	100 White/White
341 Dark Green/White	419 Navy/White	493 Royal/White
545 Purple/White	610 Cardinal/White	657 Scarlet/White
669 Dark Maroon/White		

**DRI-FIT**



**728048 NIKE PRO COOL COMPRESSION S/S****\$30.00**

SIZES: S, M, L, XL, 2XL, 3XL

OFFER DATE: 10/01/15

END DATE: 10/01/17

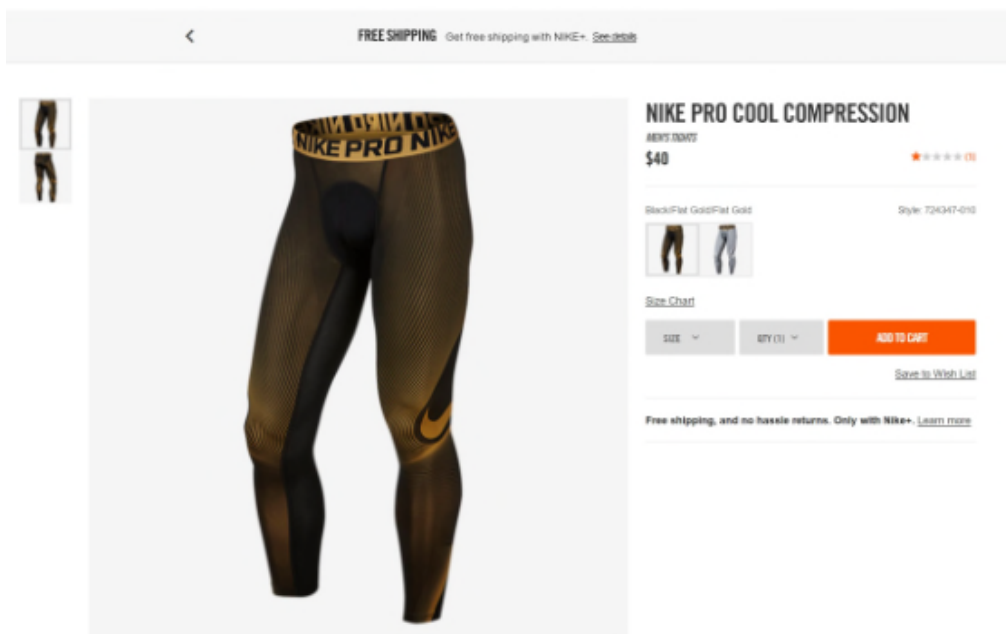
Key features: Lightweight & breathable, flatlock seams to reduce irritation from chafing. New zoned ventilation for thermoregulation. What's new and improved: raglan sleeve construction for increased mobility, vented side hem with drop tail. Zoned thermoregulation with back panel mesh. Branded verbiage inside droptail to communicate compression fit, consumer/workout: indoor/outdoor gameday or training, fit/feel. Lightweight four-way stretch jersey provides mobility. Mesh back panel provides zoned thermoregulation. "Compression" fit for locked in feel and increased proprioception. Body width: 17.5", Body length: 28.75" (size large).

FABRIC: 100% polyester.

010 Black/Cool Grey	022 Carbon Heather/Black	100 White/Cool Grey
341 Gorge Green/Cool Grey	419 College Navy/Cool Grey	454 Game Royal/Cool Grey
545 Court Purple/Cool Grey	610 Team Maroon/Cool Grey	658 University Red/Cool Grey
669 Deep Maroon/Cool Grey	727 Sundown/Cool Grey	784 Team Gold/Cool Grey
888 University Orange/Cool Grey		

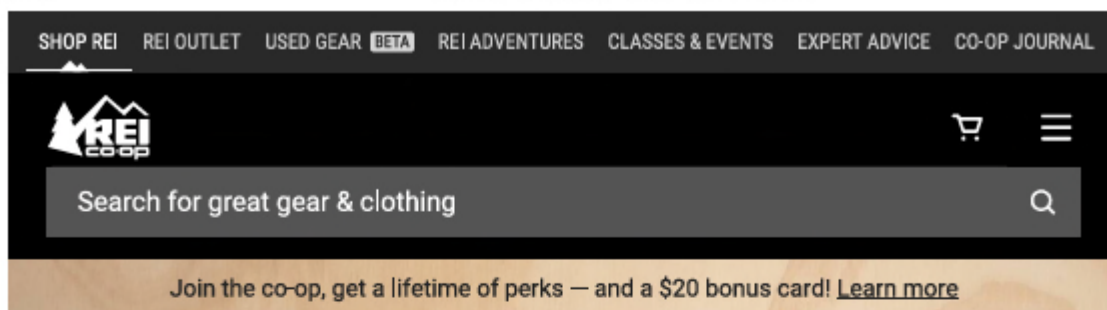
NEW DRI-FIT





5/2/2018

Nike Cool Compression 6" Shorts - Men's | REI Co-op



[Fitness](#) > [Training](#) > [Training Clothing](#) > [Men's Training Clothing](#) > [Men's Training Shorts](#)

Item #883179



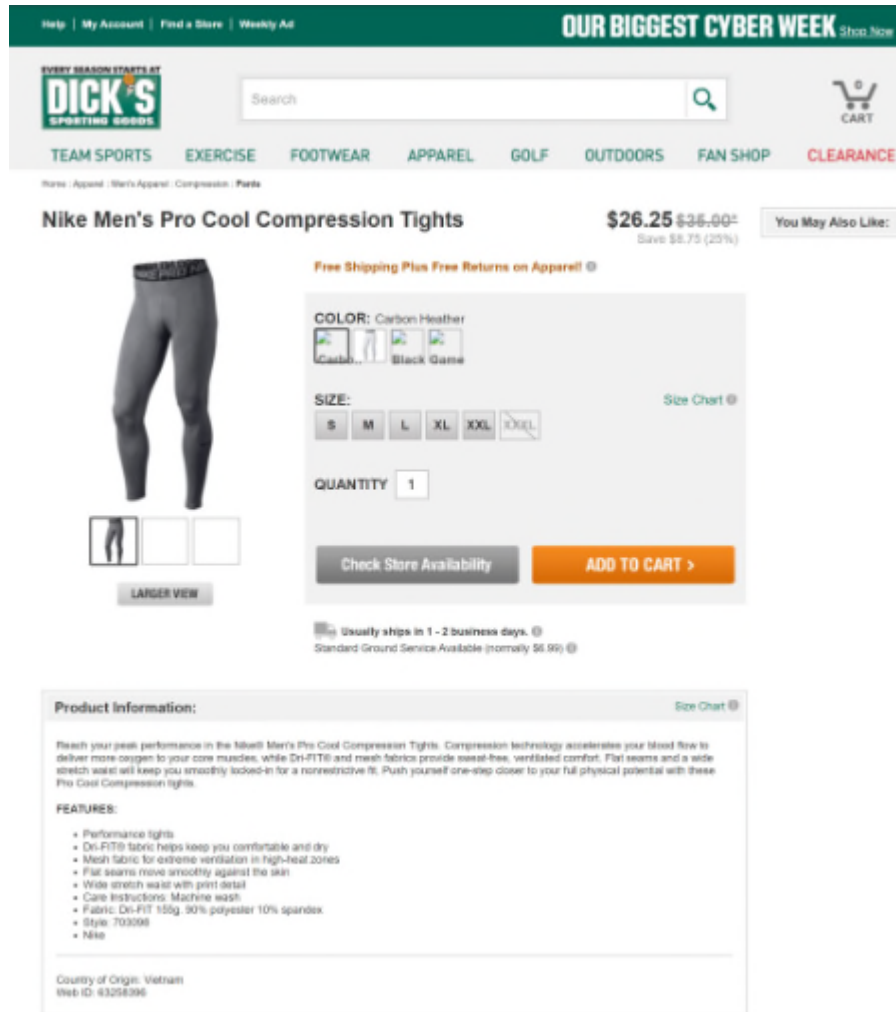
● ○ ○

Image 1 of 3: Black

**Nike**

**Nike Cool Compression 6" Shorts - Men's**





I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on May 29, 2020.

\_\_\_\_\_  
Mike Kozak




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**DICK'S** SPORTING GOODS

TEAM SPORTS EXERCISE FOOTWEAR APPAREL GOLF OUTDOORS FAN SHOP **CLEARANCE**

Nike Men's Pro Cool Compression Tights **\$26.25** ~~\$38.00~~ Save \$11.75 (31%) You May Also Like:

 **Free Shipping Plus Free Returns on Apparel**

**COLOR:** Carbon Heather  
☒ Carbon Heather ☐ Black Stone

**SIZE:** ☐ S ☐ M ☐ L ☐ XL ☐ XXL [See Chart](#)

**QUANTITY** 1

[Check Store Availability](#) [ADD TO CART](#)

Usually ships in 1 - 2 business days. Standard Ground Service Available (normally \$5.99).

**Product Information:** [Size Chart](#)


Maximize your peak performance in the latest Nike Pro Cool Compression Tights. Compression technology maximizes your blood flow to deliver more oxygen to your core muscles, while Dri-FIT and mesh fabric provide extra-breathable, ventilated comfort. Flat seams and a side waistband keep you comfortably locked in for a comfortable fit. Fully padded crotch area to give you optimal power and support with these Pro Cool Compression tights.

**FEATURES**

- Performance tights
- Dri-FIT fabric helps keep you comfortable and dry
- Mesh fabric for additional ventilation in high-heat zones
- Side seams move smoothly against the skin
- Waistband made with your comfort
- Fully padded crotch area
- Fabric: Dri-FIT 100% DRY polyester 10% spandex
- Style: 721009
- Nike

Country of Origin: Vietnam  
 Item ID: 72100909

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on May 29, 2020.

  
 Mike Kozak

**CERTIFICATE OF SERVICE**

I hereby certify that on December 4, 2020, a true and correct copy of the foregoing was filed electronically and served by mail on anyone unable to accept electronic filing. Notice of this filing will be sent via e-mail to all parties by operation of the court's electronic filing system or by mail to anyone unable to accept electronic filing as indicated on the Notice of Electronic Filing. Parties may access this filing through the Court's CM/ECF System.

*s/ Ben L. Wagner*

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Ben L. Wagner